

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PETER JOHN ARENDAS,

Defendant.

MEMORANDUM DECISION AND
ORDER TO PROVIDE REPORT ON
18 U.S.C. § 4246 DANGEROUSNESS

Case No. 1:10-CR-123 TS

On December 18, 2012, the Court held a hearing in this matter. The purpose of the hearing, in part, was to determine whether forcible medication of Defendant Peter John Arendas, pursuant to *Sell v. United States*,¹ is warranted. At the hearing, the government informed the Court that although Bureau of Prisons (“BOP”) officials have determined that Defendant is not dangerous for purposes of forcible medication on *Harper*-type grounds,² this does not preclude a finding by BOP officials that Defendant, under 18 U.S.C. § 4246, is “presently suffering from a mental disease or defect as a result of which his release would created a substantial risk of bodily

¹539 U.S. 166 (2003).

²*Washington v. Harper*, 494 U.S. 210 (1990); *see also id.* at 182–83.

injury to another person or serious damage to property of another”³ The Court finds that the BOP’s analysis of Defendant’s § 4246 dangerousness will aid the Court’s determination of whether there are important governmental interests at stake that would justify forcibly medicating Defendant.⁴

It is therefore

ORDERED that the BOP provide a report which includes an analysis of whether, pursuant to 18 U.S.C. § 4246, Defendant is “presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another. . . .” The report should be based on information already known to the BOP. However, if the BOP requires additional contact with Defendant in order to produce the report, the parties shall move the Court for an appropriate order. The BOP shall provide the report to the Court and to the parties in a timely fashion. The government is directed to provide BOP officials Tasha R. Phillips, Psy.M., and Richart L. DeMier, Ph.D., with a copy of this order.

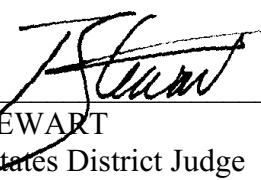
The Court will take the matter of determining whether forcible medication in this case is appropriate under advisement pending the results of the BOP’s analysis of § 4246 dangerousness.

³18 U.S.C. § 4246.

⁴See *Sell*, 539 U.S. at 180.

DATED December 19, 2012.

BY THE COURT:



TED STEWART

United States District Judge